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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LENIER AYERS,

Plaintiff,

v.

ROBIN ARNOLD WILLIAMS *et al.*,

Defendants.

Case No. C07-5540RBL

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION

The Court, having reviewed, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the report and recommendation, if any<sup>1</sup>, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) The motion for preliminary injunction is **DENIED**. The court does not have in personam jurisdiction over any defendant in this action as the action has not been properly served.
- (3) The motion to set aside a state court judgment committing Mr. Ayers is also **DENIED WITHOUT PREJUDICE**. Mr. Ayers must bring a

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<sup>1</sup>On or about April 1, 2008 plaintiff filed a document entitled "Appeal" [Dkt. #43]. The clerk processed the document as a Notice of Appeal to the United States Court of Appeals for the Ninth Circuit. It is unclear if plaintiff intended to appeal to the Ninth Circuit or object to the Report and Recommendation. If it is an objection, the Court hereby rejects the objection for the reasons set forth in the Report and Recommendation.

habeas corpus action and must first exhaust his available state court remedies. This form of relief is not available in a civil rights action.

- (4) The action is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim, suit against persons immune from damages, and failure to comply with repeated court orders to properly amend the complaint.

The Clerk is directed to send copies of this Order to plaintiff, and to the Hon. J. Kelley

DATED this 21<sup>st</sup> day of April, 2008.

Ronald B. Leighton  
RONALD B. LEIGTON  
UNITED STATES DISTRICT JUDGE